

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

AMENDED IN SENATE MAY 24, 2013

SENATE BILL

No. 247

Introduced by Senator Liu

February 12, 2013

An act to ~~amend, repeal, and add Sections 60603, 60604, 60605.6, 60640, 60642.5, 60643, and 60643.1 of, and to add Section 60644 to,~~ to the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as amended, Liu. Pupil assessment: ~~grade levels assessed.~~ *2 diagnostic assessments.*

Existing law, the Leroy Greene California Assessment of Academic Achievement Act, requires the Superintendent of Public Instruction to design and implement a statewide pupil assessment program that includes numerous elements, including, among other things, a plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive. The act also requires school districts, charter schools, and county offices of education to administer to each of its pupils in grades 2 to 11, inclusive, certain achievement tests, including a standards-based achievement test pursuant to the Standardized Testing and Reporting (STAR) Program. Existing law makes all provisions of the act inoperative on July 1, 2014. *Assembly Bill 484 of the 2013–14 Regular Session, if enacted, would, among other things, suspend the STAR Program achievement test for pupils in grade 2 commencing with the 2013–14 school year.*

~~This bill, commencing July 1, 2014, would exclude pupils in grade 2 from the STAR Program.~~

The

This bill would require the State Department of Education, by November 1, 2014, to identify and make available to school districts information regarding existing assessments in language arts and mathematics aligned to the adopted common core academic content standards for pupils in grade 2 for diagnostic use by classroom teachers. The bill would require the savings realized from the elimination of the grade 2 standards-based achievement testing to be used by local educational agencies to administer the identified assessments. The bill would require the department to ensure that the selected grade 2 diagnostic assessments are valid for purposes of identifying particular knowledge or skills a pupil has or has not acquired, but the assessments would not be valid measures for purposes of pupil, personnel, or local educational agency accountability.

This bill would become operative only if AB 484 of the 2013–14 Regular Session is also enacted and takes effect on or before January 1, 2014.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 60603 of the Education Code is amended~~
2 ~~to read:~~
3 ~~60603. As used in this chapter:~~
4 ~~(a) “Achievement test” means a standardized test that measures~~
5 ~~the level of performance that a pupil has achieved in the core~~
6 ~~curriculum areas.~~
7 ~~(b) “Assessment of applied academic skills” means a form of~~
8 ~~assessment that requires pupils to demonstrate their knowledge~~
9 ~~of, and ability to apply, academic knowledge and skills in order~~
10 ~~to solve problems and communicate. It may include, but is not~~
11 ~~limited to, writing an essay response to a question, conducting an~~
12 ~~experiment, or constructing a diagram or model. An assessment~~
13 ~~of applied academic skills shall not include assessments of personal~~
14 ~~behavioral standards or skills, including, but not limited to, honesty,~~
15 ~~sociability, ethics, or self-esteem.~~
16 ~~(c) “Basic academic skills” means those skills in the subject~~
17 ~~areas of reading, spelling, written expression, and mathematics~~
18 ~~that provide the necessary foundation for mastery of more complex~~

1 intellectual abilities, including the synthesis and application of
2 knowledge.

3 (d) “Content standards” means the specific academic knowledge,
4 skills, and abilities that all public schools in this state are expected
5 to teach and all pupils expected to learn in each of the core
6 curriculum areas, at each grade level tested.

7 (e) “Core curriculum areas” means the areas of reading, writing,
8 mathematics, history-social science, and science.

9 (f) “Diagnostic assessment” means interim assessments of the
10 current level of achievement of a pupil that serves both of the
11 following purposes:

12 (1) The identification of particular academic standards or skills
13 a pupil has or has not yet achieved.

14 (2) The identification of possible reasons that a pupil has not
15 yet achieved particular academic standards or skills.

16 (g) “Direct writing assessment” means an assessment of applied
17 academic skills that requires pupils to use written expression to
18 demonstrate writing skills, including writing mechanics, grammar,
19 punctuation, and spelling.

20 (h) “End of course exam” means a comprehensive and
21 challenging assessment of pupil achievement in a particular subject
22 area or discipline.

23 (i) “Formative assessment” means assessment tools and
24 processes that are embedded in instruction and are used by teachers
25 and pupils to provide timely feedback for purposes of adjusting
26 instruction to improve learning.

27 (j) “High-quality assessment” means an assessment designed
28 to measure a pupil’s knowledge of, understanding of, and ability
29 to apply critical concepts through the use of a variety of item types
30 and formats, including, but not limited to, items that allow for
31 open-ended responses and items that require the completion of
32 performance-based tasks. A high-quality assessment should have
33 the following characteristics:

34 (1) Enable measurement of pupil achievement and pupil growth.

35 (2) Be of high technical quality by being valid, reliable, fair,
36 and aligned to standards.

37 (3) Incorporate technology where appropriate.

38 (4) Include the assessment of pupils with disabilities and English
39 learners.

~~(5) Use, to the extent feasible, universal design principles, as defined in Section 3 of the federal Assistive Technology Act of 1998 (29 U.S.C. Sec. 3002) in its development and administration.~~

~~(k) “Interim assessment” means an assessment that is given at regular and specified intervals throughout the school year, is designed to evaluate a pupil’s knowledge and skills relative to a specific set of academic standards, and produces results that can be aggregated by course, grade level, school, or local educational agency in order to inform teachers and administrators at the pupil, classroom, school, and local educational agency levels.~~

~~(l) “Performance standards” are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established. Performance standards gauge the degree to which a pupil has met the content standards and the degree to which a school or school district has met the content standards.~~

~~(m) “Publisher” means a commercial publisher or any other public or private entity, other than the department, which is able to provide tests or test items that meet the requirements of this chapter.~~

~~(n) “Statewide pupil assessment program” means the systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the standardized testing and reporting program under Article 4 (commencing with Section 60640).~~

~~(o) This section shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed, unless a later enacted statute that is enacted before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 2. Section 60603 is added to the Education Code, to read: 60603. As used in this chapter:~~

~~(a) “Achievement test” means a standardized test that measures the level of performance that a pupil has achieved in the core curriculum areas.~~

~~(b) “Assessment of applied academic skills” means a form of assessment that requires pupils to demonstrate their knowledge of, and ability to apply, academic knowledge and skills in order to solve problems and communicate. It may include, but is not limited to, writing an essay response to a question, conducting an experiment, or constructing a diagram or model. An assessment of applied academic skills shall not include assessments of personal~~

behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(e) ~~“Basic academic skills” means those skills in the subject areas of reading, spelling, written expression, and mathematics that provide the necessary foundation for mastery of more complex intellectual abilities, including the synthesis and application of knowledge.~~

(d) ~~“Content standards” means the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested.~~

(e) ~~“Core curriculum areas” means the areas of reading, writing, mathematics, history-social science, and science.~~

(f) ~~“Diagnostic assessment” means interim assessments of the current level of achievement of a pupil that serves both of the following purposes:~~

(1) ~~The identification of particular academic standards or skills a pupil has or has not yet achieved.~~

(2) ~~The identification of possible reasons that a pupil has not yet achieved particular academic standards or skills.~~

(g) ~~“Direct writing assessment” means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar, punctuation, and spelling.~~

(h) ~~“End of course exam” means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline.~~

(i) ~~“Formative assessment” means assessment tools and processes that are embedded in instruction and are used by teachers and pupils to provide timely feedback for purposes of adjusting instruction to improve learning.~~

(j) ~~“High-quality assessment” means an assessment designed to measure a pupil’s knowledge of, understanding of, and ability to apply critical concepts through the use of a variety of item types and formats, including, but not limited to, items that allow for open-ended responses and items that require the completion of performance-based tasks. A high-quality assessment should have the following characteristics:~~

(1) ~~Enable measurement of pupil achievement and pupil growth.~~

~~(2) Be of high technical quality by being valid, reliable, fair, and aligned to standards.~~

~~(3) Incorporate technology where appropriate.~~

~~(4) Include the assessment of pupils with disabilities and English learners.~~

~~(5) Use, to the extent feasible, universal design principles, as defined in Section 3 of the federal Assistive Technology Act of 1998 (29 U.S.C. Sec. 3002) in its development and administration.~~

~~(k) “Interim assessment” means an assessment that is given at regular and specified intervals throughout the school year, is designed to evaluate a pupil’s knowledge and skills relative to a specific set of academic standards, and produces results that can be aggregated by course, grade level, school, or local educational agency in order to inform teachers and administrators at the pupil, classroom, school, and local educational agency levels.~~

~~(l) “Performance standards” are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established. Performance standards gauge the degree to which a pupil has met the content standards and the degree to which a school or school district has met the content standards.~~

~~(m) “Publisher” means a commercial publisher or any other public or private entity, other than the department, which is able to provide tests or test items that meet the requirements of this chapter.~~

~~(n) “Statewide pupil assessment program” means the systematic achievement testing of pupils in grades 3 to 11, inclusive, pursuant to the standardized testing and reporting program under Article 4 (commencing with Section 60640).~~

~~(o) This section shall become operative on July 1, 2014.~~

~~SEC. 3. Section 60604 of the Education Code is amended to read:~~

~~60604. (a) The Superintendent shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:~~

~~(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a~~

1 comprehensive analysis of these scores based on the results of the
2 achievement test designated by the state board that assesses a broad
3 range of basic academic skills pursuant to the Standardized Testing
4 and Reporting (STAR) Program established by Article 4
5 (commencing with Section 60640).

6 (2) ~~A method of working with publishers to ensure valid,~~
7 ~~reliable, and comparable individual, grade-level, school-level,~~
8 ~~school district-level, county-level, and statewide scores in grades~~
9 ~~2 to 11, inclusive.~~

10 (3) ~~Statewide academically rigorous content and performance~~
11 ~~standards that reflect the knowledge and skills that pupils will need~~
12 ~~in order to succeed in the information-based, global economy of~~
13 ~~the 21st century. These skills shall not include personal behavioral~~
14 ~~standards or skills, including, but not limited to, honesty,~~
15 ~~sociability, ethics, or self-esteem.~~

16 (4) ~~A statewide system that provides the results of testing in a~~
17 ~~manner that reflects the degree to which pupils are achieving the~~
18 ~~academically rigorous content and performance standards adopted~~
19 ~~by the state board.~~

20 (5) ~~The alignment of assessment with the statewide academically~~
21 ~~rigorous content and performance standards adopted by the state~~
22 ~~board.~~

23 (6) ~~The active, ongoing involvement of parents, classroom~~
24 ~~teachers, administrators, other educators, governing board members~~
25 ~~of school districts, and the public in all phases of the design and~~
26 ~~implementation of the statewide pupil assessment program.~~

27 (7) ~~The development of a contract or contracts with a publisher~~
28 ~~or publishers, after the approval of statewide academically rigorous~~
29 ~~content standards by the state board, for the development of~~
30 ~~performance standards and assessments of applied academic skills~~
31 ~~designed to test pupils' knowledge of academic skills and abilities~~
32 ~~to apply that knowledge and those skills in order to solve problems~~
33 ~~and communicate.~~

34 (b) ~~The Superintendent shall develop and annually update for~~
35 ~~the Legislature a five-year cost projection, implementation plan,~~
36 ~~and timetable for implementing the program described in~~
37 ~~subdivision (a). The annual update shall be submitted on or before~~
38 ~~March 1 of each year to the chairperson of the fiscal subcommittee~~
39 ~~considering budget appropriations in each house of the Legislature.~~
40 ~~The update shall explain any significant variations from the~~

1 ~~five-year cost projection for the current year budget and the~~
2 ~~proposed budget.~~

3 ~~(e) The Superintendent shall provide each school district with~~
4 ~~guidelines for professional development that are designed to assist~~
5 ~~classroom teachers to use the results of the assessments~~
6 ~~administered pursuant to this chapter to modify instruction for~~
7 ~~purposes of improving pupil learning. These guidelines shall be~~
8 ~~developed in consultation with classroom teachers and approved~~
9 ~~by the state board before dissemination.~~

10 ~~(d) The Superintendent and the state board shall consider~~
11 ~~comments and recommendations from school districts and the~~
12 ~~public in the development, adoption, and approval of assessment~~
13 ~~instruments.~~

14 ~~(e) The results of the achievement test administered pursuant~~
15 ~~to Article 4 (commencing with Section 60640) shall be returned~~
16 ~~to the school district within the period of time specified by the~~
17 ~~state board.~~

18 ~~(f) This section shall become inoperative on July 1, 2014, and~~
19 ~~as of January 1, 2015, is repealed, unless a later enacted statute~~
20 ~~that is enacted before January 1, 2015, deletes or extends the dates~~
21 ~~on which it becomes inoperative and is repealed.~~

22 ~~SEC. 4. Section 60604 is added to the Education Code, to read:~~

23 ~~60604. (a) The Superintendent shall design and implement,~~
24 ~~consistent with the timetable and plan required pursuant to~~
25 ~~subdivision (b), a statewide pupil assessment program consistent~~
26 ~~with the testing requirements of this article in accordance with the~~
27 ~~objectives set forth in Section 60602. That program shall include~~
28 ~~all of the following:~~

29 ~~(1) A plan for producing valid, reliable, and comparable~~
30 ~~individual pupil scores in grades 3 to 11, inclusive, and a~~
31 ~~comprehensive analysis of these scores based on the results of the~~
32 ~~achievement test designated by the state board that assesses a broad~~
33 ~~range of basic academic skills pursuant to the Standardized Testing~~
34 ~~and Reporting (STAR) Program established by Article 4~~
35 ~~(commencing with Section 60640).~~

36 ~~(2) A method of working with publishers to ensure valid,~~
37 ~~reliable, and comparable individual, grade-level, school-level,~~
38 ~~school district-level, county-level, and statewide scores in grades~~
39 ~~3 to 11, inclusive.~~

1 ~~(3) Statewide academically rigorous content and performance~~
2 ~~standards that reflect the knowledge and skills that pupils will need~~
3 ~~in order to succeed in the information-based, global economy of~~
4 ~~the 21st century. These skills shall not include personal behavioral~~
5 ~~standards or skills, including, but not limited to, honesty,~~
6 ~~sociability, ethics, or self-esteem.~~

7 ~~(4) A statewide system that provides the results of testing in a~~
8 ~~manner that reflects the degree to which pupils are achieving the~~
9 ~~academically rigorous content and performance standards adopted~~
10 ~~by the state board.~~

11 ~~(5) The alignment of assessment with the statewide academically~~
12 ~~rigorous content and performance standards adopted by the state~~
13 ~~board.~~

14 ~~(6) The active, ongoing involvement of parents, classroom~~
15 ~~teachers, administrators, other educators, governing board members~~
16 ~~of school districts, and the public in all phases of the design and~~
17 ~~implementation of the statewide pupil assessment program.~~

18 ~~(7) The development of a contract or contracts with a publisher~~
19 ~~or publishers, after the approval of statewide academically rigorous~~
20 ~~content standards by the state board, for the development of~~
21 ~~performance standards and assessments of applied academic skills~~
22 ~~designed to test pupils' knowledge of academic skills and abilities~~
23 ~~to apply that knowledge and those skills in order to solve problems~~
24 ~~and communicate.~~

25 ~~(b) The Superintendent shall develop and annually update for~~
26 ~~the Legislature a five-year cost projection, implementation plan,~~
27 ~~and timetable for implementing the program described in~~
28 ~~subdivision (a). The annual update shall be submitted on or before~~
29 ~~March 1 of each year to the chairperson of the fiscal subcommittee~~
30 ~~considering budget appropriations in each house of the Legislature.~~
31 ~~The update shall explain any significant variations from the~~
32 ~~five-year cost projection for the current year budget and the~~
33 ~~proposed budget.~~

34 ~~(c) The Superintendent shall provide each school district with~~
35 ~~guidelines for professional development that are designed to assist~~
36 ~~classroom teachers to use the results of the assessments~~
37 ~~administered pursuant to this chapter to modify instruction for~~
38 ~~purposes of improving pupil learning. These guidelines shall be~~
39 ~~developed in consultation with classroom teachers and approved~~
40 ~~by the state board before dissemination.~~

~~(d) The Superintendent and the state board shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.~~

~~(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district within the period of time specified by the state board.~~

~~(f) This section shall become operative on July 1, 2014.~~

SEC. 5. ~~Section 60605.6 of the Education Code is amended to read:~~

~~60605.6. Subject to the availability of funds appropriated in the annual Budget Act for this purpose, the Superintendent, upon approval of the state board, shall contract for the development and distribution of workbooks, as follows:~~

~~(a) One workbook to be distributed to all pupils in grade 10. This workbook shall contain information on the proficiency levels that must be demonstrated by pupils on the high school exit examination described in Chapter 9 (commencing with Section 60850). The workbook also shall contain sample questions, with explanations describing how these sample questions test pupil knowledge of the language arts and mathematics content standards adopted by the state board pursuant to Section 60605.~~

~~(b) Separate workbooks for each of grades 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642.5 shall receive a copy of the workbook designed for the same grade level in which the pupil is enrolled. These workbooks shall contain material to assist pupils and their parents with standards-based learning, including the grade appropriate academic content standards adopted by the state board pursuant to Section 60605 and sample questions that require knowledge of these standards to answer. The workbooks also shall describe how the sample questions test knowledge of the state board adopted academic content standards.~~

~~(c) This section shall become inoperative on July 1, 2014, and as of January 1, 2015, is repealed, unless a later enacted statute that is enacted before January 1, 2015, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 6. ~~Section 60605.6 is added to the Education Code, to read:~~

1 ~~60605.6.— Subject to the availability of funds appropriated in~~
2 ~~the annual Budget Act for this purpose, the Superintendent, upon~~
3 ~~approval of the state board, shall contract for the development and~~
4 ~~distribution of workbooks, as follows:~~

5 ~~(a) One workbook to be distributed to all pupils in grade 10.~~
6 ~~This workbook shall contain information on the proficiency levels~~
7 ~~that must be demonstrated by pupils on the high school exit~~
8 ~~examination described in Chapter 9 (commencing with Section~~
9 ~~60850). The workbook also shall contain sample questions, with~~
10 ~~explanations describing how these sample questions test pupil~~
11 ~~knowledge of the language arts and mathematics content standards~~
12 ~~adopted by the state board pursuant to Section 60605.~~

13 ~~(b) Separate workbooks for each of grades 3 to 11, inclusive.~~
14 ~~Each pupil in grades 3 to 11, inclusive, who is required to take the~~
15 ~~achievement tests described in Section 60642.5 shall receive a~~
16 ~~copy of the workbook designed for the same grade level in which~~
17 ~~the pupil is enrolled. These workbooks shall contain material to~~
18 ~~assist pupils and their parents with standards-based learning,~~
19 ~~including the grade appropriate academic content standards adopted~~
20 ~~by the state board pursuant to Section 60605 and sample questions~~
21 ~~that require knowledge of these standards to answer. The~~
22 ~~workbooks also shall describe how the sample questions test~~
23 ~~knowledge of the state board adopted academic content standards.~~

24 ~~(c) This section shall become operative on July 1, 2014.~~

25 ~~SEC. 7.— Section 60640 of the Education Code is amended to~~
26 ~~read:~~

27 ~~60640. (a) There is hereby established the Standardized Testing~~
28 ~~and Reporting Program, to be known as the STAR Program.~~

29 ~~(b) From the funds available for the STAR Program, each school~~
30 ~~district, charter school, and county office of education shall~~
31 ~~administer to each of its pupils in grades 2 to 11, inclusive, the~~
32 ~~standards-based achievement test provided for in Section 60642.5.~~
33 ~~The state board shall establish a testing period to provide that all~~
34 ~~schools administer these tests to pupils at approximately the same~~
35 ~~time during the instructional year, except as necessary to ensure~~
36 ~~test security and to meet the final filing date.~~

37 ~~(c) The publisher and the school district shall provide two~~
38 ~~makeup days for the testing of previously absent pupils within the~~
39 ~~testing period established by the state board in subdivision (b).~~

1 ~~(d) The governing board of the school district may administer~~
2 ~~achievement tests in grades other than those required by~~
3 ~~subdivision (b) as it deems appropriate.~~

4 ~~(e) Pursuant to Section 1412(a)(16) of Title 20 of the United~~
5 ~~States Code, individuals with exceptional needs, as defined in~~
6 ~~Section 56026, shall be included in the testing requirement of~~
7 ~~subdivision (b) with appropriate accommodations in administration,~~
8 ~~where necessary, and those individuals with exceptional needs~~
9 ~~who are unable to participate in the testing, even with~~
10 ~~accommodations, shall be given an alternate assessment.~~

11 ~~(f) (1) At the option of the school district, pupils with limited~~
12 ~~English proficiency who are enrolled in any of grades 2 to 11,~~
13 ~~inclusive, may take a second achievement test in their primary~~
14 ~~language. Primary language tests administered pursuant to this~~
15 ~~subdivision and subdivision (g) shall be subject to the requirements~~
16 ~~of subdivision (a) of Section 60641. These primary language tests~~
17 ~~shall produce individual pupil scores that are valid and reliable.~~

18 ~~(2) Notwithstanding any other law, the state board shall~~
19 ~~designate for use, as part of the STAR Program, a single primary~~
20 ~~language test in each language for which a test is available for~~
21 ~~grades 2 to 11, inclusive, pursuant to the process used for~~
22 ~~designation of the assessment chosen in the 1997–98 fiscal year,~~
23 ~~as specified in Section 60643, as applicable.~~

24 ~~(3) (A) The department shall use funds made available pursuant~~
25 ~~to Title VI of the federal No Child Left Behind Act of 2001 (20~~
26 ~~U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget~~
27 ~~Act for purposes of developing and adopting primary language~~
28 ~~assessments that are aligned to the state academic content~~
29 ~~standards. Subject to the availability of funds, primary language~~
30 ~~assessments shall be developed and adopted for reading language~~
31 ~~arts and mathematics in the dominant primary language of~~
32 ~~limited-English-proficient pupils. The dominant primary language~~
33 ~~shall be determined by the count in the annual language census of~~
34 ~~the primary language of each limited-English-proficient pupil~~
35 ~~enrolled in the California public schools.~~

36 ~~(B) Once a dominant primary language assessment is available~~
37 ~~for use for a specific grade level, it shall be administered in place~~
38 ~~of the assessment designated pursuant to paragraph (1) for that~~
39 ~~grade level.~~

1 ~~(C) In choosing a contractor to develop a primary language~~
2 ~~assessment the state board shall consider the criteria for choosing~~
3 ~~a contractor or test publisher as specified by Section 60643, and~~
4 ~~as specified by Section 60642.5, as applicable.~~

5 ~~(D) Subject to the availability of funds, the assessments shall~~
6 ~~be developed in grade order starting with the lowest grade subject~~
7 ~~to the STAR Program.~~

8 ~~(E) If the state board contracts for the development of primary~~
9 ~~language assessments or test items to augment an existing~~
10 ~~assessment, the state shall retain ownership rights to the assessment~~
11 ~~and the test items. With the approval of the state board, the~~
12 ~~department may license the test for use in other states subject to a~~
13 ~~compensation agreement approved by the Department of Finance.~~

14 ~~(F) On or before January 1, 2006, the department shall submit~~
15 ~~to the Legislature a report on the development and implementation~~
16 ~~of the initial primary language assessments and recommendations~~
17 ~~on the development and implementation of future assessments and~~
18 ~~funding requirements.~~

19 ~~(g) A pupil identified as limited English proficient pursuant to~~
20 ~~the administration of a test made available pursuant to Section~~
21 ~~60810 who is enrolled in any of grades 2 to 11, inclusive, and who~~
22 ~~either receives instruction in his or her primary language or has~~
23 ~~been enrolled in a school in the United States for less than 12~~
24 ~~months shall be required to take a test in his or her primary~~
25 ~~language if a test is available.~~

26 ~~(h) (1) The Superintendent shall apportion funds to school~~
27 ~~districts to enable school districts to meet the requirements of~~
28 ~~subdivisions (b), (c), (f), and (g).~~

29 ~~(2) The state board annually shall establish the amount of~~
30 ~~funding to be apportioned to school districts for each test~~
31 ~~administered and annually shall establish the amount that each~~
32 ~~publisher shall be paid for each test administered under the~~
33 ~~agreements required pursuant to Section 60643. The amounts to~~
34 ~~be paid to the publishers shall be determined by considering the~~
35 ~~cost estimates submitted by each publisher each September and~~
36 ~~the amount included in the annual Budget Act, and by making~~
37 ~~allowance for the estimated costs to school districts for compliance~~
38 ~~with the requirements of subdivisions (b), (c), (f), and (g).~~

39 ~~(3) An adjustment to the amount of funding to be apportioned~~
40 ~~per test shall not be valid without the approval of the Director of~~

1 Finance. A request for approval of an adjustment to the amount
2 of funding to be apportioned per test shall be submitted in writing
3 to the Director of Finance and the chairpersons of the fiscal
4 committees of both houses of the Legislature with accompanying
5 material justifying the proposed adjustment. The Director of
6 Finance is authorized to approve only those adjustments related
7 to activities required by statute. The Director of Finance shall
8 approve or disapprove the amount within 30 days of receipt of the
9 request and shall notify the chairpersons of the fiscal committees
10 of both houses of the Legislature of the decision.

11 (i) For purposes of making the computations required by Section
12 8 of Article XVI of the California Constitution, the appropriation
13 for the apportionments made pursuant to paragraph (1) of
14 subdivision (h), and the payments made to the publishers under
15 the contracts required pursuant to Section 60643 or subparagraph
16 (C) of paragraph (1) of subdivision (a) of Section 60605 between
17 the department and the contractor, are “General Fund revenues
18 appropriated for school districts,” as defined in subdivision (c) of
19 Section 41202, for the applicable fiscal year, and included within
20 the “total allocations to school districts and community college
21 districts from General Fund proceeds of taxes appropriated pursuant
22 to Article XIII B,” as defined in subdivision (e) of Section 41202,
23 for that fiscal year.

24 (j) As a condition to receiving an apportionment pursuant to
25 subdivision (h), a school district shall report to the Superintendent
26 all of the following:

27 (1) The number of pupils enrolled in the school district in grades
28 2 to 11, inclusive.

29 (2) The number of pupils to whom an achievement test was
30 administered in grades 2 to 11, inclusive, in the school district.

31 (3) The number of pupils in paragraph (1) who were exempted
32 from the test at the request of their parents or guardians.

33 (k) The Superintendent and the state board are authorized and
34 encouraged to assist postsecondary educational institutions to use
35 the assessment results of the California Standards Tests, including,
36 but not limited to, the augmented California Standards Tests, for
37 academic credit, placement, or admissions processes.

38 (l) The Superintendent, with the approval of the state board,
39 annually shall release to the public test items from the
40 standards-based achievement tests pursuant to Section 60642.5

1 administered in previous years. The minimum number of test items
2 released per year shall be equal to 25 percent of the total number
3 of test items on the test administered in the previous year.

4 (m) This section shall become inoperative on July 1, 2014, and
5 as of January 1, 2015, is repealed, unless a later enacted statute
6 that is enacted before January 1, 2015, deletes or extends the dates
7 on which it becomes inoperative and is repealed.

8 SEC. 8. Section 60640 is added to the Education Code, to read:

9 60640. (a) There is hereby established the Standardized Testing
10 and Reporting Program, to be known as the STAR Program.

11 (b) From the funds available for the STAR Program, each school
12 district, charter school, and county office of education shall
13 administer to each of its pupils in grades 3 to 11, inclusive, the
14 standards-based achievement test provided for in Section 60642.5.
15 The state board shall establish a testing period to provide that all
16 schools administer these tests to pupils at approximately the same
17 time during the instructional year, except as necessary to ensure
18 test security and to meet the final filing date.

19 (c) The publisher and the school district shall provide two
20 makeup days for the testing of previously absent pupils within the
21 testing period established by the state board in subdivision (b).

22 (d) The governing board of the school district may administer
23 achievement tests in grades other than those required by
24 subdivision (b) as it deems appropriate.

25 (e) Pursuant to Section 1412(a)(16) of Title 20 of the United
26 States Code, individuals with exceptional needs, as defined in
27 Section 56026, shall be included in the testing requirement of
28 subdivision (b) with appropriate accommodations in administration,
29 where necessary, and those individuals with exceptional needs
30 who are unable to participate in the testing, even with
31 accommodations, shall be given an alternate assessment.

32 (f) (1) At the option of the school district, pupils with limited
33 English proficiency who are enrolled in any of grades 3 to 11,
34 inclusive, may take a second achievement test in their primary
35 language. Primary language tests administered pursuant to this
36 subdivision and subdivision (g) shall be subject to the requirements
37 of subdivision (a) of Section 60641. These primary language tests
38 shall produce individual pupil scores that are valid and reliable.

39 (2) Notwithstanding any other law, the state board shall
40 designate for use, as part of the STAR Program, a single primary

1 language test in each language for which a test is available for
2 grades 3 to 11, inclusive, pursuant to the process used for
3 designation of the assessment chosen in the 1997-98 fiscal year,
4 as specified in Section 60643, as applicable.

5 (3) (A) The department shall use funds made available pursuant
6 to Title VI of the federal No Child Left Behind Act of 2001 (20
7 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget
8 Act for purposes of developing and adopting primary language
9 assessments that are aligned to the state academic content
10 standards. Subject to the availability of funds, primary language
11 assessments shall be developed and adopted for reading-language
12 arts and mathematics in the dominant primary language of
13 limited-English-proficient pupils. The dominant primary language
14 shall be determined by the count in the annual language census of
15 the primary language of each limited-English-proficient pupil
16 enrolled in the California public schools.

17 (B) Once a dominant primary language assessment is available
18 for use for a specific grade level, it shall be administered in place
19 of the assessment designated pursuant to paragraph (1) for that
20 grade level.

21 (C) In choosing a contractor to develop a primary language
22 assessment the state board shall consider the criteria for choosing
23 a contractor or test publisher as specified by Section 60643, and
24 as specified by Section 60642.5, as applicable.

25 (D) Subject to the availability of funds, the assessments shall
26 be developed in grade order starting with the lowest grade subject
27 to the STAR Program.

28 (E) If the state board contracts for the development of primary
29 language assessments or test items to augment an existing
30 assessment, the state shall retain ownership rights to the assessment
31 and the test items. With the approval of the state board, the
32 department may license the test for use in other states subject to a
33 compensation agreement approved by the Department of Finance.

34 (F) On or before January 1, 2006, the department shall submit
35 to the Legislature a report on the development and implementation
36 of the initial primary language assessments and recommendations
37 on the development and implementation of future assessments and
38 funding requirements.

39 (g) A pupil identified as limited English proficient pursuant to
40 the administration of a test made available pursuant to Section

1 60810 who is enrolled in any of grades 3 to 11, inclusive, and who
2 either receives instruction in his or her primary language or has
3 been enrolled in a school in the United States for less than 12
4 months shall be required to take a test in his or her primary
5 language if a test is available.

6 (h) (1) The Superintendent shall apportion funds to school
7 districts to enable school districts to meet the requirements of
8 subdivisions (b), (c), (f), and (g).

9 (2) The state board annually shall establish the amount of
10 funding to be apportioned to school districts for each test
11 administered and annually shall establish the amount that each
12 publisher shall be paid for each test administered under the
13 agreements required pursuant to Section 60643. The amounts to
14 be paid to the publishers shall be determined by considering the
15 cost estimates submitted by each publisher each September and
16 the amount included in the annual Budget Act, and by making
17 allowance for the estimated costs to school districts for compliance
18 with the requirements of subdivisions (b), (c), (f), and (g).

19 (3) An adjustment to the amount of funding to be apportioned
20 per test shall not be valid without the approval of the Director of
21 Finance. A request for approval of an adjustment to the amount
22 of funding to be apportioned per test shall be submitted in writing
23 to the Director of Finance and the chairpersons of the fiscal
24 committees of both houses of the Legislature with accompanying
25 material justifying the proposed adjustment. The Director of
26 Finance is authorized to approve only those adjustments related
27 to activities required by statute. The Director of Finance shall
28 approve or disapprove the amount within 30 days of receipt of the
29 request and shall notify the chairpersons of the fiscal committees
30 of both houses of the Legislature of the decision.

31 (i) For purposes of making the computations required by Section
32 8 of Article XVI of the California Constitution, the appropriation
33 for the apportionments made pursuant to paragraph (1) of
34 subdivision (h), and the payments made to the publishers under
35 the contracts required pursuant to Section 60643 or subparagraph
36 (C) of paragraph (1) of subdivision (a) of Section 60605 between
37 the department and the contractor, are "General Fund revenues
38 appropriated for school districts," as defined in subdivision (c) of
39 Section 41202, for the applicable fiscal year, and included within
40 the "total allocations to school districts and community college

1 districts from General Fund proceeds of taxes appropriated pursuant
2 to Article XIII B,” as defined in subdivision (e) of Section 41202;
3 for that fiscal year.

4 (j) ~~As a condition to receiving an apportionment pursuant to~~
5 ~~subdivision (h), a school district shall report to the Superintendent~~
6 ~~all of the following:~~

7 (1) ~~The number of pupils enrolled in the school district in grades~~
8 ~~3 to 11, inclusive.~~

9 (2) ~~The number of pupils to whom an achievement test was~~
10 ~~administered in grades 3 to 11, inclusive, in the school district.~~

11 (3) ~~The number of pupils in paragraph (1) who were exempted~~
12 ~~from the test at the request of their parents or guardians.~~

13 (k) ~~The Superintendent and the state board are authorized and~~
14 ~~encouraged to assist postsecondary educational institutions to use~~
15 ~~the assessment results of the California Standards Tests, including,~~
16 ~~but not limited to, the augmented California Standards Tests, for~~
17 ~~academic credit, placement, or admissions processes.~~

18 (l) ~~The Superintendent, with the approval of the state board,~~
19 ~~annually shall release to the public test items from the~~
20 ~~standards-based achievement tests pursuant to Section 60642.5~~
21 ~~administered in previous years. The minimum number of test items~~
22 ~~released per year shall be equal to 25 percent of the total number~~
23 ~~of test items on the test administered in the previous year.~~

24 (m) ~~This section shall become operative on July 1, 2014.~~

25 SEC. 9. ~~Section 60642.5 of the Education Code is amended to~~
26 ~~read:~~

27 60642.5. (a) ~~The Superintendent, with approval of the state~~
28 ~~board, shall provide for the development of an assessment~~
29 ~~instrument, to be called the California Standards Tests, that~~
30 ~~measures the degree to which pupils are achieving the academically~~
31 ~~rigorous content standards and performance standards, to the extent~~
32 ~~standards have been adopted by the state board. These~~
33 ~~standards-based achievement tests shall contain the subject areas~~
34 ~~specified in subdivision (e) of Section 60603 for grades 2 to 8,~~
35 ~~inclusive, and shall include an assessment in history-social science~~
36 ~~in at least one elementary or middle school grade level selected~~
37 ~~by the state board and science in at least one elementary or middle~~
38 ~~school grade level selected by the state board, and the core~~
39 ~~curriculum areas specified in subdivision (e) of Section 60603 for~~
40 ~~grades 9 to 11, inclusive, except that history-social science shall~~

1 not be included in the grade 9 assessment unless the state board
2 adopts academic content standards for a grade 9 history-social
3 science course, and shall include, at a minimum, a direct writing
4 assessment once in elementary school and once in middle or junior
5 high school and other items of applied academic skill if deemed
6 valid and reliable and if resources are made available for their use.

7 (b) In approving a contract for the development or administration
8 of the California Standards Tests, the state board shall consider
9 each of the following criteria:

10 (1) The ability of the contractor to produce valid, reliable
11 individual pupil scores.

12 (2) The ability of the contractor to report results pursuant to
13 subdivision (a) of Section 60643 by August 8.

14 (3) The ability of the contractor to ensure alignment between
15 the standards-based achievement test and the academically rigorous
16 content and performance standards as those standards are adopted
17 by the state board. This criterion shall include the ability of the
18 contractor to implement a process to establish and maintain
19 alignment between the test items and the standards.

20 (4) The per pupil cost estimates of developing and, if
21 appropriate, administering the proposed assessment with a system
22 to facilitate the determination of future per pupil cost
23 determinations.

24 (5) The procedures of the contractor to ensure the security and
25 integrity of test questions and materials.

26 (6) The experience of the contractor in successfully conducting
27 testing programs adopted and administered by other states. For
28 experience to be considered, the number of grades and pupils tested
29 shall be provided.

30 (c) The standards-based achievement tests may use items from
31 other tests.

32 (d) This section shall become inoperative on July 1, 2014, and
33 as of January 1, 2015, is repealed, unless a later enacted statute
34 that is enacted before January 1, 2015, deletes or extends the dates
35 on which it becomes inoperative and is repealed.

36 SEC. 10. Section 60642.5 is added to the Education Code, to
37 read:

38 60642.5. (a) The Superintendent, with approval of the state
39 board, shall provide for the development of an assessment
40 instrument, to be called the California Standards Tests, that

1 measures the degree to which pupils are achieving the academically
2 rigorous content standards and performance standards, to the extent
3 standards have been adopted by the state board. These
4 standards-based achievement tests shall contain the subject areas
5 specified in subdivision (c) of Section 60603 for grades 3 to 8,
6 inclusive, and shall include an assessment in history-social science
7 in at least one elementary or middle school grade level selected
8 by the state board and science in at least one elementary or middle
9 school grade level selected by the state board, and the core
10 curriculum areas specified in subdivision (c) of Section 60603 for
11 grades 9 to 11, inclusive, except that history-social science shall
12 not be included in the grade 9 assessment unless the state board
13 adopts academic content standards for a grade 9 history-social
14 science course, and shall include, at a minimum, a direct writing
15 assessment once in elementary school and once in middle or junior
16 high school and other items of applied academic skill if deemed
17 valid and reliable and if resources are made available for their use.

18 (b) In approving a contract for the development or administration
19 of the California Standards Tests, the state board shall consider
20 each of the following criteria:

21 (1) The ability of the contractor to produce valid, reliable
22 individual pupil scores.

23 (2) The ability of the contractor to report results pursuant to
24 subdivision (a) of Section 60643 by August 8.

25 (3) The ability of the contractor to ensure alignment between
26 the standards-based achievement test and the academically rigorous
27 content and performance standards as those standards are adopted
28 by the state board. This criterion shall include the ability of the
29 contractor to implement a process to establish and maintain
30 alignment between the test items and the standards.

31 (4) The per pupil cost estimates of developing and, if
32 appropriate, administering the proposed assessment with a system
33 to facilitate the determination of future per pupil cost
34 determinations.

35 (5) The procedures of the contractor to ensure the security and
36 integrity of test questions and materials.

37 (6) The experience of the contractor in successfully conducting
38 testing programs adopted and administered by other states. For
39 experience to be considered, the number of grades and pupils tested
40 shall be provided.

1 ~~(e) The standards-based achievement tests may use items from~~
2 ~~other tests.~~

3 ~~(d) This section shall become operative on July 1, 2014.~~

4 SEC. 11. ~~Section 60643 of the Education Code is amended to~~
5 ~~read:~~

6 ~~60643. (a) To be eligible for consideration under Section~~
7 ~~60642.5 by the state board, test publishers shall agree in writing~~
8 ~~each year to meet the following requirements, as applicable, if~~
9 ~~selected:~~

10 ~~(1) Enter into an agreement, pursuant to subdivision (c) or (f),~~
11 ~~with the department by October 15 of that year.~~

12 ~~(2) Align the standards-based achievement test provided for in~~
13 ~~Section 60642.5 to the academically rigorous content and~~
14 ~~performance standards adopted by the state board.~~

15 ~~(3) Comply with subdivisions (c) and (d) of Section 60645.~~

16 ~~(4) Provide valid and reliable individual pupil scores to parents~~
17 ~~or guardians, teachers, and school administrators.~~

18 ~~(5) Provide valid and reliable aggregate scores to school districts~~
19 ~~and county boards of education in all of the following forms and~~
20 ~~formats:~~

21 ~~(A) Grade level.~~

22 ~~(B) School level.~~

23 ~~(C) School district level.~~

24 ~~(D) Countywide.~~

25 ~~(E) Statewide.~~

26 ~~(F) Comparison of statewide scores relative to other states.~~

27 ~~(6) Provide disaggregated scores, based on~~
28 ~~limited-English-proficient status and nonlimited-English-proficient~~
29 ~~status. For purposes of this section, pupils with~~
30 ~~“nonlimited-English-proficient status” shall include the total of~~
31 ~~those pupils who are English-only pupils, fluent-English-proficient~~
32 ~~pupils, and redesignated fluent-English-proficient pupils. These~~
33 ~~scores shall be provided to school districts and county boards of~~
34 ~~education in the same forms and formats listed in paragraph (5).~~

35 ~~(7) Provide disaggregated scores by pupil gender and ethnicity~~
36 ~~and provide disaggregated scores based on whether pupils are~~
37 ~~economically disadvantaged or not. These disaggregated scores~~
38 ~~shall be in the same forms and formats as listed in paragraph (5).~~
39 ~~In any one year, the disaggregation shall entail information already~~

1 being collected by school districts, county offices of education, or
2 charter schools.

3 ~~(8) Provide disaggregated scores for pupils who have~~
4 ~~individualized education programs and have enrolled in special~~
5 ~~education, to the extent required by federal law. These scores shall~~
6 ~~be provided in the same forms and formats listed in paragraph (5).~~
7 ~~This section shall not be construed to exclude the scores of special~~
8 ~~education pupils from any state or federal accountability system.~~

9 ~~(9) Provide information listed in paragraphs (5) to (8), inclusive,~~
10 ~~to the department and the state board in the medium requested by~~
11 ~~each entity, respectively.~~

12 ~~(b) It is the intent of the Legislature that the publisher work with~~
13 ~~the Superintendent and the state board in developing a methodology~~
14 ~~to disaggregate statewide scores as required in paragraphs (6) and~~
15 ~~(7) of subdivision (a), and in determining which variable indicated~~
16 ~~on the STAR testing document shall serve as a proxy for~~
17 ~~“economically disadvantaged” status pursuant to paragraph (7) of~~
18 ~~subdivision (a).~~

19 ~~(c) Access to information about individual pupils or their~~
20 ~~families shall be granted to the publisher only for purposes of~~
21 ~~correctly associating test results with the pupils who produced~~
22 ~~those results or for reporting and disaggregating test results as~~
23 ~~required by this section. School districts are prohibited from~~
24 ~~excluding a pupil from the test if a parent or parents decline to~~
25 ~~disclose income. This chapter does not abridge or deny rights to~~
26 ~~confidentiality contained in the federal Family Educational Rights~~
27 ~~and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable~~
28 ~~state and federal law that protects the confidentiality of information~~
29 ~~collected by educational institutions.~~

30 ~~(d) Notwithstanding any other law, the publisher of the~~
31 ~~standards-based achievement test provided for in Section 60642.5~~
32 ~~or any contractor under subdivision (f) shall comply with all of~~
33 ~~the conditions and requirements enumerated in subdivision (a), as~~
34 ~~applicable, to the satisfaction of the state board.~~

35 ~~(e) (1) A publisher shall not provide a test described in Section~~
36 ~~60642.5 or subdivision (f) of Section 60640 for use in California~~
37 ~~public schools, unless the publisher enters into a written contract~~
38 ~~with the department as set forth in this subdivision.~~

39 ~~(2) The department shall develop, and the state board shall~~
40 ~~approve, a contract to be entered into with a publisher pursuant to~~

1 paragraph (1). The department may develop the contract through
2 negotiations with the publisher.

3 ~~(3) For purposes of the contracts authorized pursuant to this~~
4 ~~subdivision, the department is exempt from the requirements of~~
5 ~~Part 2 (commencing with Section 10100) of Division 2 of the~~
6 ~~Public Contract Code and from the requirements of Article 6~~
7 ~~(commencing with Section 999) of Chapter 6 of Division 4 of the~~
8 ~~Military and Veterans Code.~~

9 ~~(4) The contracts shall include provisions for progress payments~~
10 ~~to the publisher for work performed or costs incurred in the~~
11 ~~performance of the contract. Not less than 10 percent of the amount~~
12 ~~budgeted for each separate and distinct component task provided~~
13 ~~for in each contract shall be withheld pending final completion of~~
14 ~~all component tasks by that publisher. The total amount withheld~~
15 ~~pending final completion shall not exceed 10 percent of the total~~
16 ~~contract price.~~

17 ~~(5) The contracts shall require liquidated damages to be paid~~
18 ~~by the publisher in the amount of up to 10 percent of the total cost~~
19 ~~of the contract for any component task that the publisher through~~
20 ~~its own fault or that of its subcontractors fails to substantially~~
21 ~~perform by the date specified in the agreement.~~

22 ~~(6) The contracts shall establish the process and criteria by~~
23 ~~which the successful completion of each component task shall be~~
24 ~~recommended by the department and approved by the state board.~~

25 ~~(7) The publishers shall submit, as part of the contract~~
26 ~~negotiation process, a proposed budget and invoice schedule, that~~
27 ~~includes a detailed listing of the costs for each component task~~
28 ~~and the expected date of the invoice for each completed component~~
29 ~~task.~~

30 ~~(8) The contracts shall specify the following component tasks,~~
31 ~~as applicable, that are separate and distinct:~~

32 ~~(A) Development of new tests or test items as required by~~
33 ~~paragraph (2) of subdivision (a).~~

34 ~~(B) Test materials production or publication.~~

35 ~~(C) Delivery of test materials to school districts.~~

36 ~~(D) Test processing, scoring, and analyses.~~

37 ~~(E) Reporting of test results to the school districts, including,~~
38 ~~but not limited to, all reports specified in this section.~~

39 ~~(F) Reporting of test results to the department, including, but~~
40 ~~not limited to, the electronic files required pursuant to this section.~~

1 ~~(G) All other analyses or reports required by the Superintendent~~
2 ~~to meet the requirements of state and federal law and set forth in~~
3 ~~the agreement.~~

4 ~~(9) The contracts shall specify the specific reports and data files,~~
5 ~~if any, that are to be provided to school districts by the publisher~~
6 ~~and the number of copies of each report or file to be provided.~~

7 ~~(10) The contracts shall specify the means by which any delivery~~
8 ~~date for materials to each school district shall be verified by the~~
9 ~~publisher and the school district.~~

10 ~~(11) School districts may negotiate a separate agreement with~~
11 ~~the publisher for any additional materials or services not within~~
12 ~~the contracts specified in this subdivision, including, but not limited~~
13 ~~to, the administration of the tests to pupils in grade levels other~~
14 ~~than grades 2 to 11, inclusive. Any separate agreement is not within~~
15 ~~the scope of the contract specified in this subdivision.~~

16 ~~(f) The department, with approval of the state board, may enter~~
17 ~~into a separate contract for the development or administration of~~
18 ~~a test authorized pursuant to this part, including, but not limited~~
19 ~~to, item development, coordination of tests, assemblage of tests~~
20 ~~or test items, scoring, or reporting. The liquidated damages~~
21 ~~provision set forth in paragraph (5) of subdivision (c) shall apply~~
22 ~~to a contract entered into pursuant to this subdivision.~~

23 ~~(g) This section shall become inoperative on July 1, 2014, and~~
24 ~~as of January 1, 2015, is repealed, unless a later enacted statute~~
25 ~~that is enacted before January 1, 2015, deletes or extends the dates~~
26 ~~on which it becomes inoperative and is repealed.~~

27 ~~SEC. 12. Section 60643 is added to the Education Code, to~~
28 ~~read:~~

29 ~~60643. (a) To be eligible for consideration under Section~~
30 ~~60642.5 by the state board, test publishers shall agree in writing~~
31 ~~each year to meet the following requirements, as applicable, if~~
32 ~~selected:~~

33 ~~(1) Enter into an agreement, pursuant to subdivision (c) or (f),~~
34 ~~with the department by October 15 of that year.~~

35 ~~(2) Align the standards-based achievement test provided for in~~
36 ~~Section 60642.5 to the academically rigorous content and~~
37 ~~performance standards adopted by the state board.~~

38 ~~(3) Comply with subdivisions (c) and (d) of Section 60645.~~

39 ~~(4) Provide valid and reliable individual pupil scores to parents~~
40 ~~or guardians, teachers, and school administrators.~~

1 ~~(5) Provide valid and reliable aggregate scores to school districts~~
2 ~~and county boards of education in all of the following forms and~~
3 ~~formats:~~

4 ~~(A) Grade level.~~

5 ~~(B) School level.~~

6 ~~(C) School district level.~~

7 ~~(D) Countywide.~~

8 ~~(E) Statewide.~~

9 ~~(F) Comparison of statewide scores relative to other states.~~

10 ~~(6) Provide disaggregated scores, based on~~
11 ~~limited-English-proficient status and nonlimited-English-proficient~~
12 ~~status. For purposes of this section, pupils with~~
13 ~~“nonlimited-English-proficient status” shall include the total of~~
14 ~~those pupils who are English-only pupils, fluent-English-proficient~~
15 ~~pupils, and redesignated fluent-English-proficient pupils. These~~
16 ~~scores shall be provided to school districts and county boards of~~
17 ~~education in the same forms and formats listed in paragraph (5).~~

18 ~~(7) Provide disaggregated scores by pupil gender and ethnicity~~
19 ~~and provide disaggregated scores based on whether pupils are~~
20 ~~economically disadvantaged or not. These disaggregated scores~~
21 ~~shall be in the same forms and formats as listed in paragraph (5).~~
22 ~~In any one year, the disaggregation shall entail information already~~
23 ~~being collected by school districts, county offices of education, or~~
24 ~~charter schools.~~

25 ~~(8) Provide disaggregated scores for pupils who have~~
26 ~~individualized education programs and have enrolled in special~~
27 ~~education, to the extent required by federal law. These scores shall~~
28 ~~be provided in the same forms and formats listed in paragraph (5).~~
29 ~~This section shall not be construed to exclude the scores of special~~
30 ~~education pupils from any state or federal accountability system.~~

31 ~~(9) Provide information listed in paragraphs (5) to (8), inclusive,~~
32 ~~to the department and the state board in the medium requested by~~
33 ~~each entity, respectively.~~

34 ~~(b) It is the intent of the Legislature that the publisher work with~~
35 ~~the Superintendent and the state board in developing a methodology~~
36 ~~to disaggregate statewide scores as required in paragraphs (6) and~~
37 ~~(7) of subdivision (a), and in determining which variable indicated~~
38 ~~on the STAR testing document shall serve as a proxy for~~
39 ~~“economically disadvantaged” status pursuant to paragraph (7) of~~
40 ~~subdivision (a).~~

~~(e) Access to information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. This chapter does not abridge or deny rights to confidentiality contained in the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable state and federal law that protects the confidentiality of information collected by educational institutions.~~

~~(d) Notwithstanding any other law, the publisher of the standards-based achievement test provided for in Section 60642.5 or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.~~

~~(e) (1) A publisher shall not provide a test described in Section 60642.5 or subdivision (f) of Section 60640 for use in California public schools, unless the publisher enters into a written contract with the department as set forth in this subdivision.~~

~~(2) The department shall develop, and the state board shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.~~

~~(3) For purposes of the contracts authorized pursuant to this subdivision, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.~~

~~(4) The contracts shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.~~

~~(5) The contracts shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost~~

1 of the contract for any component task that the publisher through
2 its own fault or that of its subcontractors fails to substantially
3 perform by the date specified in the agreement.

4 (6) The contracts shall establish the process and criteria by
5 which the successful completion of each component task shall be
6 recommended by the department and approved by the state board.

7 (7) The publishers shall submit, as part of the contract
8 negotiation process, a proposed budget and invoice schedule, that
9 includes a detailed listing of the costs for each component task
10 and the expected date of the invoice for each completed component
11 task.

12 (8) The contracts shall specify the following component tasks,
13 as applicable, that are separate and distinct:

14 (A) Development of new tests or test items as required by
15 paragraph (2) of subdivision (a).

16 (B) Test materials production or publication.

17 (C) Delivery of test materials to school districts.

18 (D) Test processing, scoring, and analyses.

19 (E) Reporting of test results to the school districts, including,
20 but not limited to, all reports specified in this section.

21 (F) Reporting of test results to the department, including, but
22 not limited to, the electronic files required pursuant to this section.

23 (G) All other analyses or reports required by the Superintendent
24 to meet the requirements of state and federal law and set forth in
25 the agreement.

26 (9) The contracts shall specify the specific reports and data files,
27 if any, that are to be provided to school districts by the publisher
28 and the number of copies of each report or file to be provided.

29 (10) The contracts shall specify the means by which delivery
30 dates for materials to each school district shall be verified by the
31 publisher and the school district.

32 (11) School districts may negotiate a separate agreement with
33 the publisher for additional materials or services not within the
34 contracts specified in this subdivision, including, but not limited
35 to, the administration of the tests to pupils in grade levels other
36 than grades 3 to 11, inclusive. A separate agreement is not within
37 the scope of the contract specified in this subdivision.

38 (f) The department, with approval of the state board, may enter
39 into a separate contract for the development or administration of
40 a test authorized pursuant to this part, including, but not limited

1 to, item development, coordination of tests, assemblage of tests
2 or test items, scoring, or reporting. The liquidated damages
3 provision set forth in paragraph (5) of subdivision (c) shall apply
4 to a contract entered into pursuant to this subdivision.

5 (g) This section shall become operative on July 1, 2014.

6 SEC. 13. Section 60643.1 of the Education Code is amended
7 to read:

8 60643.1. (a) (1) The test publisher designated by the state
9 board pursuant to Section 60642.5 shall make available a reading
10 list on the Internet by June 1 of the applicable school year. The
11 reading list shall include an index that correlates ranges of pupil
12 reading scores on the English language arts portion of the
13 achievement test designated pursuant to Section 60642.5 to titles
14 of materials that would be suitable for pupils in each of grades 2
15 to 11, inclusive, to read in order to improve their reading skills.
16 This reading list shall include titles of books that allow a pupil to
17 practice reading at his or her current reading level and that will
18 assist the pupil in achieving a higher level of proficiency. To the
19 extent possible, the index also shall include information related to
20 the subject matter of each title. At a minimum, the reading list also
21 shall categorize titles by subject matter and identify age-appropriate
22 distinctions in the list.

23 (2) The test publisher, in each school year, shall make available
24 for purchase by school districts a report that provides a numerical
25 distribution of the reading scores of all pupils in California who
26 took the achievement test designated pursuant to Section 60642.5.

27 (3) The test publisher, in each school year, shall make available
28 for purchase by school districts reading lists that can be distributed
29 to pupils based on a pupil's age and the ranges of scores on the
30 English language arts portion of the achievement test designated
31 pursuant to Section 60642.5.

32 (4) The requirements of this subdivision shall become operative
33 only upon a determination by the Director of Finance that funds
34 are available to make an adjustment pursuant to subdivision (h)
35 of Section 60640.

36 (b) The state board and the Superintendent jointly shall certify
37 that the process used by the publisher to determine the reading
38 levels of the corresponding reading list pursuant to paragraph (1)
39 of subdivision (a) meets the following criteria:

40 (1) The process is educationally valid.

1 ~~(2) The process results in a reading list for each reading span~~
2 ~~that provides titles at the pupil's current reading level and the next~~
3 ~~higher level for challenging practice.~~

4 ~~(3) The process results in a selection from the universe of titles~~
5 ~~from the list developed pursuant to subdivision (d) that matches~~
6 ~~each reading level.~~

7 ~~(4) The process is unbiased in the selection of publishers' titles~~
8 ~~from the legal compliance list.~~

9 ~~(e) The titles listed at each reading level range posted on the~~
10 ~~Internet and the reading lists made available to school districts~~
11 ~~pursuant to subdivision (a), at a minimum, shall include all relevant~~
12 ~~literature materials approved as of September 1, 1999, as being~~
13 ~~legally compliant pursuant to Article 3 (commencing with Section~~
14 ~~60040) of Chapter 1, and the titles listed in all of the content area~~
15 ~~reading and literature lists that are developed and published by the~~
16 ~~department and that have been determined by the department to~~
17 ~~meet the relevant reading level as certified pursuant to subdivision~~
18 ~~(b).~~

19 ~~(d) By imposing the requirements of this section on publishers,~~
20 ~~it is not the intent of the Legislature to unfairly disadvantage any~~
21 ~~publisher who has otherwise met the requirements of this section~~
22 ~~or of Article 3 (commencing with Section 60040) of Chapter 1.~~

23 ~~(e) This section shall become inoperative on July 1, 2014, and~~
24 ~~as of January 1, 2015, is repealed, unless a later enacted statute~~
25 ~~that is enacted before January 1, 2015, deletes or extends the dates~~
26 ~~on which it becomes inoperative and is repealed.~~

27 ~~SEC. 14. Section 60643.1 is added to the Education Code, to~~
28 ~~read:~~

29 ~~60643.1. (a) (1) The test publisher designated by the state~~
30 ~~board pursuant to Section 60642.5 shall make available a reading~~
31 ~~list on the Internet by June 1 of the applicable school year. The~~
32 ~~reading list shall include an index that correlates ranges of pupil~~
33 ~~reading scores on the English language arts portion of the~~
34 ~~achievement test designated pursuant to Section 60642.5 to titles~~
35 ~~of materials that would be suitable for pupils in each of grades 3~~
36 ~~to 11, inclusive, to read in order to improve their reading skills.~~
37 ~~This reading list shall include titles of books that allow a pupil to~~
38 ~~practice reading at his or her current reading level and that will~~
39 ~~assist the pupil in achieving a higher level of proficiency. To the~~
40 ~~extent possible, the index also shall include information related to~~

1 the subject matter of each title. At a minimum, the reading list also
2 shall categorize titles by subject matter and identify age-appropriate
3 distinctions in the list.

4 (2) The test publisher, in each school year, shall make available
5 for purchase by school districts a report that provides a numerical
6 distribution of the reading scores of all pupils in California who
7 took the achievement test designated pursuant to Section 60642.5.

8 (3) The test publisher, in each school year, shall make available
9 for purchase by school districts reading lists that can be distributed
10 to pupils based on a pupil's age and the ranges of scores on the
11 English language arts portion of the achievement test designated
12 pursuant to Section 60642.5.

13 (4) The requirements of this subdivision shall become operative
14 only upon a determination by the Director of Finance that funds
15 are available to make an adjustment pursuant to subdivision (h)
16 of Section 60640.

17 (b) The state board and the Superintendent jointly shall certify
18 that the process used by the publisher to determine the reading
19 levels of the corresponding reading list pursuant to paragraph (1)
20 of subdivision (a) meets the following criteria:

21 (1) The process is educationally valid.

22 (2) The process results in a reading list for each reading span
23 that provides titles at the pupil's current reading level and the next
24 higher level for challenging practice.

25 (3) The process results in a selection from the universe of titles
26 from the list developed pursuant to subdivision (d) that matches
27 each reading level.

28 (4) The process is unbiased in the selection of publishers' titles
29 from the legal compliance list.

30 (e) The titles listed at each reading level range posted on the
31 Internet and the reading lists made available to school districts
32 pursuant to subdivision (a), at a minimum, shall include all relevant
33 literature materials approved as of September 1, 1999, as being
34 legally compliant pursuant to Article 3 (commencing with Section
35 60040) of Chapter 1, and the titles listed in all of the content area
36 reading and literature lists that are developed and published by the
37 department and that have been determined by the department to
38 meet the relevant reading level as certified pursuant to subdivision
39 (b):

1 ~~(d) By imposing the requirements of this section on publishers,~~
2 ~~it is not the intent of the Legislature to unfairly disadvantage any~~
3 ~~publisher who has otherwise met the requirements of this section~~
4 ~~or of Article 3 (commencing with Section 60040) of Chapter 1.~~

5 ~~(e) This section shall become operative on July 1, 2014.~~

6 ~~SEC. 15.~~

7 *SECTION 1.* Section 60644 is added to the Education Code,
8 to read:

9 60644. (a) By November 1, 2014, the department shall identify
10 and make available to school districts information regarding
11 existing assessments in language arts and mathematics that are
12 aligned to the common core academic content standards adopted
13 pursuant to Section 60605.8 and appropriate for pupils in grade 2
14 for diagnostic use by classroom teachers. The purpose of these
15 assessments shall be to aid teachers and to gain information about
16 the developing language arts and computational skills of pupils in
17 grade 2.

18 (b) The savings realized from the elimination of the grade 2
19 standards-based achievement testing ~~pursuant to the act that added~~
20 ~~this section~~ shall be used by local educational agencies to
21 administer the assessments identified pursuant to subdivision (a).

22 (c) *The department shall ensure that the selected grade 2*
23 *diagnostic assessments are valid for purposes of identifying*
24 *particular knowledge or skills a pupil has or has not acquired in*
25 *order to inform instruction and make educational decisions. The*
26 *selected grade 2 diagnostic assessments shall not be valid measures*
27 *for purposes of pupil, personnel, or local educational agency*
28 *accountability.*

29 *SEC. 2. This act shall become operative only if Assembly Bill*
30 *484 of the 2013–14 Regular Session is also enacted and takes*
31 *effect on or before January 1, 2014.*